

§ 729.307 Assessment of penalties; joint and several liability.

Any person against whom a penalty is assessed in accordance with this subpart, shall be notified of the penalty assessment in writing by the appropriate county committee. Such notice shall state the amount of the penalty and the basis upon which the penalty is being assessed. The notice shall also state that the person against whom the penalty is being assessed may request reconsideration of the assessment of the penalty in accordance with part 780 of this chapter. If more than one person is liable for a penalty, the liability of all persons involved shall be joint and several liability.

§ 729.308 Lien for penalty.

(a) *Lien on peanuts.* Until the amount of any penalty provided by this part is paid, a lien on the crop of peanuts with respect to which such penalty is incurred, and on any subsequent crops of peanuts subject to poundage quotas in which the person liable for payment of the penalty has an interest, shall be in effect in favor of the United States.

(b) *Lien precedence.* The lien on the peanuts takes precedence over all claims and attaches at the time the debt is entered on a county claim record in the county FSA office for the county in which the subsequent crop is grown.

(c) *List of peanut marketing penalty debts.* Each county FSA office shall maintain a list of peanut marketing penalties for which a claim has been established and recorded in such office. The list shall be made available for examination upon written request by any interested person.

§ 729.309 Persons to pay penalty or collect debts.

(a) *Marketings to handlers.* The buyer shall be liable for the full penalty due on marketings of excess quota peanuts that such handler buys or otherwise acquires from a producer. Also, the buyer shall be liable with the producer for the full penalty due on peanuts purchased from a producer as additional peanuts in excess of the amount contracted with the producer as contract additional peanuts in accordance with part 1446 of this title. The buyer may

deduct the penalty from the price paid to the producer for the peanuts. If the net value of a lot of peanuts is less than the penalty due on such lot, or if the handler fails to collect the penalty due on any marketing of a lot of peanuts from a farm, the buyer and each of the producers on the farm shall be held jointly and severally liable for the amount of any unpaid penalty due on such lot of peanuts.

(b) *Other marketings.* The producer is liable for the penalty due on any marketings of excess quota peanuts to persons who are not established peanut buyers.

(c) *Penalty for error on marketing card.* The producer and the buyer are jointly and severally liable for any penalties which may be due if the buyer made an error or failed to properly record the pounds of peanuts marketed on the producer's marketing card and such error resulted in marketings in excess of the effective poundage quota or the pounds contracted as additional peanuts in accordance with part 1446 of this title.

(d) *Notice to affected parties.* All affected parties shall be deemed to be on notice that penalties are due when the marketings of peanuts for domestic edible use exceed the effective poundage quota indicated on the marketing card or the marketing of peanuts as contract additional peanuts exceeds the amount contracted by the producer as additional peanuts in accordance with part 1446 of this title. In addition:

(1) *PPQ lien.* If a peanut poundage quota (PPQ) lien is recorded on a claim record maintained in a county FSA office in accordance with § 729.308 of this part or recorded on the peanut marketing card such recordation shall constitute notice to any peanut buyer that until the amount of the penalty involved plus accrued interest is paid, the United States has a lien on any peanuts, from any crop year that are subject to farm poundage quotas in which the person liable for payment of the penalty has an interest. Peanut poundage quota (PPQ) lien amounts shall be collected by the buyer and paid to the Farm Service Agency prior to making collection for any other liens or claims, except for a lien that was perfected before the PPQ lien became

attached, as provided in § 729.308 of this part. Such buyer shall be liable for payment of such amount that was, or should have been, collected by the buyer.

(2) *U.S. claim.* If a U.S. claim, other than for a PPQ lien, is recorded on a marketing card, such recordation shall constitute notice to any peanut buyer that, to the extent of the indebtedness shown, and subject to prior liens, the net proceeds from any price support loan due the debtor must be withheld from the producer and paid to the Farm Service Agency. Such buyer shall be liable for payment of such amount that was, or should have been, withheld.

(3) *Converted penalty rate.* If a converted penalty rate is entered on the marketing card by the county FSA office, the buyer shall collect penalty at such converted penalty rate on each pound of peanuts acquired from the producers of the peanuts. Any penalty that is collected must be paid to the Farm Service Agency. Such buyer shall be liable for payment of such amount that was, or should have been, collected by the buyer.

§ 729.310 Payment of penalty or other debt.

(a) *Method of payment.* A draft, money order, or check made payable to the Farm Service Agency may be used to pay any penalty, other indebtedness collected in accordance with this subpart, or interest thereon. All methods of payment shall be received subject to collection and payment at face value.

(b) *Due date.* The penalty becomes due on the date of marketing, or in the case of false identification or failure to account for the disposition of peanuts, the date the producer is notified of the false identification or the failure to account, as applicable.

(c) *Interest.* The person liable for payment or collection of the penalty shall be liable also for interest thereon at the rate of interest charged CCC for its borrowings by the United States Treasury on the date such penalty became due. If the rate charged CCC by the Treasury is increased, the interest due on the penalty may be, to the extent permitted by law, increased commensurately for the period of such in-

crease. Interest shall accrue from the date the penalty was due if the penalty is not remitted within 30 days after the date the penalty was assessed. Nothing in paragraph (c) of this section, shall limit the liability of a person for pre-penalty interest where otherwise provided for in this part or otherwise provided for by law.

§ 729.311 Peanuts on which penalties are not to be assessed.

Notwithstanding other provisions in this subpart:

(a) *Error in weight.* A penalty shall not be collected if such penalty results from an error in net weight of a lot of peanuts marketed, as reported on Form FSA-1007, Inspection Certificate and Sales Memorandum, and the error does not exceed one-tenth of one percent of the correct net weight of such lot of peanuts. However, notwithstanding the preceding sentence, in the case of fraud or conspiracy, a penalty shall be due for any error in the net weight, regardless of the size or amount of the error.

(b) *Peanuts grown on State prison farms.* A penalty shall not be collected on peanuts grown on State prison farms for consumption within such State prison system, and so consumed.

(c) *Peanuts grown for experimental or research purposes.* (1) A penalty shall not be collected on the marketing of any peanuts that are:

(i) Grown only for experimental or research purposes, which shall include seed determined by the Deputy Administrator to be breeder or foundation seed;

(ii) Grown on land owned or leased by a publicly-owned agricultural experiment station, which shall include a State-operated seed organization;

(iii) Produced at public expense by employees of entities described in paragraph (c)(1)(ii) of this section, or are produced by farmers for seed determined by the Deputy Administrator to be breeder or foundation seed peanuts for experimental or research purposes pursuant to an agreement with a publicly-owned agricultural experiment station, which shall include such State-operated seed organizations.

(2) The exemption from penalty, as provided in paragraph (c)(1) of this section shall not apply unless: